

**Translation**

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>55811</b>	<b>FOR FURTHER ACTION</b>	See Form PCT/IPEA/416
International application No. <b>PCT/EP2004/003743</b>	International filing date (day/month/year) <b>07.04.2004</b>	Priority date (day/month/year) <b>14.04.2003</b>
International Patent Classification (IPC) or national classification and IPC		
Applicant <b>WACKER CONSTRUCTION EQUIPMENT AG</b>		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.
3.	This report is also accompanied by ANNEXES, comprising: <ul style="list-style-type: none"> <li>a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>6</u> sheets, as follows:             <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> </li> <li>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</li> </ul>
4.	This report contains indications relating to the following items: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the report</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul>

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003743

Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-22 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* 1-30 \_\_\_\_\_ received by this Authority on 08.12.2004 with letter
- nos.\* \_\_\_\_\_ received by this Authority on of 08.12.2004
- ☒ the drawings:
- sheets 1/5-5/5 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003743

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	1-30	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-30	NO
Industrial applicability (IA)	Claims	1-30	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

1. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 does not involve an inventive step (PCT Article 33(3)).

1.1 DE-A-10053446 (cf. figure 1) is regarded as the prior art closest to the subject matter of claim 1 and discloses a soil-compacting system with a travelling and steerable vibration plate and a control device, the control device comprising:

- a motion, i.e. position change sensing system (which senses at least two successive positions) (6) for sensing the current position of the vibration plate;
- a path of travel generator (7) for modifying the direction of travel by setting a set value for a travelling motion of the vibration plate.

1.2 Consequently, the subject matter of claim 1 differs from the known vibration plate in that an area definition system is provided to enable an

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

operator to determine the area to be compacted and its corresponding boundaries, and in that the path of travel generator modifies the direction of travel in such a way that the vibration plate does not travel past the area boundaries, but rather continues its travel within the area.

1.3 The present invention can therefore be considered to address the problem of relieving the operator.

1.4 The solution proposed in claim 1 of the present application cannot be considered inventive because the design of working machines which are self-propelled within area boundaries predetermined by an operator is generally known (cf., for example, US-A-4600999, column 3, lines 18-35, or US-A-6088644, figures 7-10). A person skilled in the art would apply the prior art teachings, include an area definition system and design the path of travel generator accordingly, so as to prevent the working machine from travelling past the area boundaries, and would thus arrive at a vibration plate as per claim 1 without being inventive.

2. The same argument also applies to the independent process claims 27 and 28. The subject matter of these claims therefore also fails to involve an inventive step.

In this context it is noted that although the device in US-A-6088644 is automatically steered along a planned path, the reaching of the end of a

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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travelling section, which is defined by the intersection with an area boundary, could be understood as "sensing the approach to one of the area boundaries", and the subsequent change of direction along the planned path of travel could be understood as an "automatic change in the direction of travel".

Moreover, the expression "storing...in an area definition system" (claim 28) corresponds to the expression "defining...with a surface definition system" (claim 27), and "travelling along a planned path" (claim 28) happens "within the area boundaries" (claim 27).

Reference is also made to document FR-A-2697098 (cf. page 5, line 33 - page 6, line 3), which discloses a self-propelled machine which senses marked area boundaries, by means of detectors mounted on the vehicle, and automatically (randomly) changes the direction of travel.

3. Dependent claims 2-26 and 29-30 do not appear to contain any features which, in combination with the features of any claim to which they refer, meet the PCT inventive step requirements; see the citations and the corresponding passages indicated in the search report.



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